



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of Claims Against the Dealer Bond  
of Hillside Autos, LLC

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Case No. TR-14-0007

**FINAL DECISION**

On February 16, 2014, an employee of the Division of Motor Vehicles, Department of Transportation filed a claim with the Wisconsin Department of Transportation (Department) against the motor vehicle dealer bond of Hillside Autos, LLC. The claim along with documents gathered by the Department during its investigation of the claim was referred to the Division of Hearings and Appeals. The Administrative Law Judge issued a Preliminary Determination in this matter on May 6, 2014. No objections to the Preliminary Determination were received. Pursuant to Wis. Admin. Code § Trans 140.26(5)(d) the Preliminary Determination is adopted as the final decision of the Department of Transportation.

In accordance with Wis. Stat. § 227.47 and 227.53(1)(c) the PARTIES to this proceeding are certified as follows:

Wisconsin Department of Transportation  
Division of Motor Vehicles  
Dealer and Agent Section  
P.O. Box 7909  
Madison, WI 53707

Joshua Zweifel  
Hillside Autos, LLC  
W7398 East Lamartine Drive  
Fond du Lac, WI 54937-9139

Jafar Nikkhab  
Hillside Autos, LLC  
W665 State Road 23  
Saint Cloud, WI 53079-1535

Aegis Security Insurance Company  
P. O. Box 3153  
Harrisburg, PA 17105

## FINDINGS OF FACT

1. Hillside Autos, LLC, (Dealer) was licensed by the Wisconsin Department of Transportation (Department) as a motor vehicle dealer. The Dealer's facilities were located at W665 State Road 23, Saint Cloud, Wisconsin. Jafar Nikkhah and Josh Zwiefel were the owners of Hillside Autos, LLC. The dealership was placed out of business effective February 4, 2013.

2. The Dealer had a surety bond satisfying the requirements of Wis. Stat. § 218.0114(5) in force from February 10, 2012, until February 9, 2013 (Bond #524794 from Aegis Security Insurance Company).

3. Between October 12, 2012, and January 16, 2013, the Dealer failed to process applications for 24 motor vehicles for vehicles that it sold to retail customers. On January 22, 2013, the Dealer surrendered the Dealer's motor vehicle dealer license and dealer plates to the Division of Motor Vehicles (DMV). At the same time, the Dealer submitted to the DMV the Wisconsin Title and Registration Applications (MV-11s) for the 24 motor vehicles that the Dealer had failed to process. However, the Dealer failed to submit the required fees to process the applications.

4. An investigator from the DMV submitted the 24 MV-11s for processing and had titles and plates issued to the purchasers of the vehicles without any fees. The investigator then contacted Jafar Nikkhah and Josh Zwiefel regarding the unpaid fees. It was determined that Jafar Nikkhah owed \$1,016.00 in title and registration fees for eight vehicles he had sold and Josh Zwiefel owed \$2,167.00 in title and registration fees for sixteen vehicles he had sold. On February 20, 2013, the investigator received a payment in the amount of \$1,016.00 from Jafar Nikkhah for his share of the title and registration fees owed. The investigator received no response from Josh Zweifel.

5. On February 16, 2014, the DMV submitted a claim against the surety bond of the Dealer in the amount of \$2,167.00. The amount of the bond claim represents the sum of the unpaid fees for sixteen MV-11s submitted to the DMV.

6. The Dealer's failure to submit the required fees along with the MV-11s constitutes a violation of Wis. Stat. § 342.06(1). A violation of Wis. Stat. § 342.06(1), in turn, constitutes a violation of Wis. Stat. § 218.0116(1)(gm) (having violated any law relating to the sale, lease, distribution, or financing of motor vehicles).

7. The loss sustained by the DMV was caused by an act of the Dealer that would be grounds for the suspension or revocation of its motor vehicle dealer license. Accordingly, the claim is allowable. The DMV has provided documentation to support a claim in the amount of \$2,167.00.

8. The DMV's claims arose during the time period between October 12, 2012, and January 16, 2013. The bond claims was filed within three years of the ending date of the one-year period that a surety bond issued by Capitol Indemnity Corporation was in effect and is, therefore, timely claim.

#### CONCLUSIONS OF LAW

1. The DMV's claim arose during the time period between October 12, 2012, and January 16, 2013. The surety bond issued to the Dealer by Aegis Security Insurance Company covers a one-year period commencing on February 10, 2012. The claim arose during the period covered by the surety bond.

2. The DMV filed a claim against the motor vehicle dealer bond of the Dealer on February 16, 2014. The bond claim was filed within three years of the last day of the period covered by the surety bond. Pursuant to Wis. Admin. Code § Trans 140.21(1)(d), the claim is timely.

3. The DMV's loss was caused by an act of the Dealer which would be grounds for suspension or revocation of its motor vehicle dealer license. Pursuant to Wis. Admin. Code § Trans 140.21(1)(c), the claim is allowable. The DMV has provided documentation to support a claim in the amount of \$2,167.00.

4. The Division of Hearings and Appeals has authority to issue the following order:

#### ORDER

The claim filed by the Division of Motor Vehicles against the motor vehicle dealer bond of Hillside Autos, LLC, is APPROVED in the amount of \$2,167.00. Aegis Security Insurance Company shall pay the Division of Motor Vehicles this amount for the loss attributable to the actions of Hillside Autos, LLC.

Dated at Madison, Wisconsin on June 20, 2014.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705-5400  
Telephone: (608) 266-7709  
FAX: (608) 264-9885

By: \_\_\_\_\_  
MARK F. KAISER  
ADMINISTRATIVE LAW JUDGE

## NOTICE

Set out below is a list of alternative methods available to persons who may wish to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Transportation a written petition for rehearing pursuant to Wis. Stat. § 227.49. A copy of any such petition for rehearing should also be provided to the Administrative Law Judge who issued the order. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.

2. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (1) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Pursuant to Wis. Admin. Code § TRANS 140.26(7), the attached final decision of the Administrative Law Judge is a final decision of the Department of Transportation, so any petition for judicial review shall name the Department of Transportation as the respondent. The Department of Transportation shall be served with a copy of the petition either personally or by certified mail. The address for service is:

Office of General Counsel  
4802 Sheboygan Avenue, Room 115B  
Wisconsin Department of Transportation  
Madison, Wisconsin 53705

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. § 227.52 and 227.53 to insure strict compliance with all its requirements.